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October 4, 2006

Fair Political Practices Commission
428 J Street, Suite 800
Sacramento, California 95814

Re: Adoption of Proposed Regulation for small cities: 2 Cal. Code
Regs. Section 18707.10

Dear Commissioners:

At its meeting on October 4, 2006, the City Council of the City of Ukiah authorized and directed me, as the City's Mayor, to write this letter urging you to adopt the above-referenced proposed regulation at your upcoming meeting on November 14, 2006.

The Ukiah City Council became concerned with the impact of the Commission's regulations earlier this year, when the "500 foot rule" (see 2 CCR § 18704.2) triggering the "even one cent" rule required four of the five City Councilmembers to declare a conflict regarding the development of formed based zoning and a possible limitation on "formula businesses" for the downtown area of the City.

The City learned that, at least, 15 other small cities had similar concerns. The League of California Cities agreed to facilitate a discussion of this problem at the Spring City Attorney Conference. City attorneys representing numerous small cities attended a "break out session" to discuss the problem.

Examples of the participants in the break-out session include Ukiah which has a resident population of approximately 15,500, ranges in width from .5 miles to 1.5 miles, is roughly 4 miles long and 4.7 square miles; Solano Beach, which has a resident population of approximately 13,000 and is roughly 4 square miles; Bishop with a population of 3,600 and roughly 1.8 square miles, and Loma Linda which has a population of roughly 20,000 and is approximately 7.3 square miles.

In these smaller communities land use issues affecting select, but very important, parts of town are among the most important issues facing these communities. The importance of these issues to the community as a

whole generally outweighs the financial impact on property owned by individual city officials.

For example, because of its climate and coastal access, Solano Beach has a large number of vacation rentals. Bluff erosion is a major issue in Solano Beach and shoreline issues motivated a number of Councilmembers to run for office. Solano Beach hired an expert to establish that a sufficient number of parcels were affected by these issues to qualify for the public generally exception under 2 CCR §18707.1 [10% of property owners]. The FPPC has taken the position that vacation rentals cannot be counted as households. As a result, the FPPC would not recognize the applicability of the public generally exception for shoreline protection issues in Solano Beach.

Loma Linda is home to Loma Linda University. One City Councilmember is a professor at the University. Another is a lawyer who represents the University. A third City Councilmember is a physician at Loma Linda University Medical Center. The City Council winds up drawing straws, whenever an issue comes before the City Council that could have a material financial effect on the University. A large number of issues tend to affect the University, because of its location and importance to the community.

In Bishop, because of its very small size, the biggest problem is the proximity of single family residences to other property in the city which may be the subject of a land use decision.

Ukiah faces similar problems. Preservation of its downtown is a major issue in the city as it is for many small cities. Because the downtown is located in the virtual center of the city and because the city is quite narrow, four of the current City Councilmembers own property (either their own home or a business office) within 500 feet of the boundaries of the area recognized as the downtown business improvement district and the "gateway streets" leading from US Highway 101 into the downtown area.

The importance of these land use decisions frequently motivate people to run for City Council. These officials run for office based on their positions regarding these questions and their constituents voted for them, because of these positions. The constituents expect them to vote, when these issues come before the city council and are frequently disappointed that their candidate must refrain from participating because of conflicts of interest. When participants are selected at random under 2 CCR § 18708, chance, rather than the political process, often determines how a City Council decides these critical issues.

Because of their small size and populations, the 500 foot rule and the limitations on the Public Generally exception have a greater impact on small cities than on larger ones. This is the case, for example, in Solano Beach, Bishop, Loma Linda and Ukiah. A revision of the Public Generally regulations could reduce this impact for small cities, encourage qualified candidates to run for office and allow decisions to be made by the democratic process rather than by drawing cards or rolling dice.

The proposed regulation doesn't solve this problem entirely, but should help by reducing the distance resulting in automatic disqualification from 500 feet to 300 feet. The regulation would be of even greater benefit, if it included not only the official's personal residence but also a property owned and used as his or her principal place of business. In Ukiah, for example, the automatic disqualification has affected me, because I own my own dental office, and another Councilmember, because her husband owns his own law office.

Nevertheless, the proposed regulation will certainly help this and future city councils and the Ukiah City Council urges the Commission to adopt the proposed regulation.

Sincerely,


Mark Ashiku, Mayor

cc: Ukiah City Council